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IDAHO LEGISLATURE

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FIFTY-NINTH LEGISLATURE

TWENTY-SECOND LEGISLATIVE DAY
MONDAY, JANUARY 29, 2007

Senate Chamber

President Risch called the Senate to order at 11:15 a.m.

Roll call showed all members present except Senators Burkett and McKenzie, absent and formally excused by the Chair; and Senators Cameron, Little, Pearce, and Stegner, absent and excused.

Prayer was offered by Chaplain Goebel.

The Pledge of Allegiance was led by Adam Calkins, Page.

The Senate advanced to the Third Order of Business.

Reading and Correction of the Journal

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of January 26, 2007, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Sixth Order of Business.

Reports of Standing Committees

Senators Stegner and Cameron were recorded present at this order of business.

January 29, 2007

The JUDICIARY AND RULES Committee reports that **S 1049, S 1050, S 1051, S 1052, S 1053, S 1054, SCR 101, SCR 102, and SCR 103** have been correctly printed.

DARRINGTON, Chairman

S 1049, S 1050, S 1051, and S 1052 were referred to the Transportation Committee.

S 1053 and S 1054 were referred to the State Affairs Committee.

SCR 101, SCR 102, and SCR 103 were referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

January 26, 2007

The FINANCE Committee reports out **H 39** with the recommendation that it do pass.

CAMERON, Chairman

H 39 was filed for second reading.

January 26, 2007

The RESOURCES AND ENVIRONMENT Committee reports out **S 1010** with the recommendation that it do pass.

SCHROEDER, Chairman

S 1010 was filed for second reading.

January 29, 2007

The STATE AFFAIRS Committee reports out **H 1** with the recommendation that it do pass.

McKENZIE, Chairman

H 1 was filed for second reading.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eighth Order of Business.

Messages from the Governor

January 18, 2007

The Honorable James E. Risch
President of the Senate
Idaho Legislature

Dear Mr. President:

I have the honor to inform you that Jeff Anderson of Boise, Idaho, was appointed as the Director of the Idaho State Lottery Commission to serve a term commencing January 9, 2007, and continuing at the pleasure of the Governor.

This appointment was made subject to confirmation by the Senate. Notice of appointment is hereby given.

As Always - Idaho, *Esto Perpetua*
/s/ C. L. 'Butch' Otter
Governor

The correspondence was ordered filed in the office of the Secretary of the Senate.

The Gubernatorial appointment was referred to the State Affairs Committee.

The Senate advanced to the Ninth Order of Business.

Messages from the House

January 26, 2007

Mr. President:

I transmit herewith **H 2** which has passed the House.

JUKER, Chief Clerk

H 2 was filed for first reading.

The Senate advanced to the Tenth Order of Business.

Motions and Resolutions

Senator Pearce was recorded present at this order of business.

The President announced the Transportation Committee report relative to the Gubernatorial appointment of Mark Sweeney as a member of the Idaho Aeronautics Advisory Board was confirmed by voice vote.

On motion by Senator Stegner, seconded by Senator Langhorst, the Gubernatorial appointment of Mark Sweeney as a member of the Idaho Aeronautics Advisory Board was confirmed by voice vote.

The President declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The President announced the Transportation Committee report relative to the Gubernatorial appointment of Daniel R. Scott was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Heinrich, seconded by Senator Langhorst, the Gubernatorial appointment of Daniel R. Scott as a member of the Idaho Aeronautics Advisory Board was confirmed by voice vote.

The President declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The President announced the Transportation Committee report relative to the Gubernatorial appointment of Darrell V. Manning was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator McGee, seconded by Senator Langhorst, the Gubernatorial appointment of Darrell V. Manning as Chairman of the Idaho Transportation Board was confirmed by voice vote.

The President declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The President announced the State Affairs Committee report relative to the Gubernatorial appointment of Scott McLeod was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Stennett, seconded by Senator Stegner, the Gubernatorial appointment of Scott McLeod as a member of the Idaho State Lottery Commission was confirmed by voice vote.

The President declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The Senate advanced to the Eleventh Order of Business.

Introduction, First Reading and Reference of Bills, House Petitions, Resolutions, and Memorials

S 1055

BY RESOURCES AND ENVIRONMENT COMMITTEE

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-1101, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A CERTAIN FINDING OF GUILT AND TO PROVIDE FOR RESTITUTION FOR THE REPAIR OR REPLACEMENT OF SIMULATED WILDLIFE.

S 1056

BY LOCAL GOVERNMENT AND TAXATION COMMITTEE

AN ACT

RELATING TO THE LOCAL PLANNING ACT; AMENDING SECTION 67-6529, IDAHO CODE, TO PROVIDE THAT AFFECTED PERSONS MAY COMMENT ON PROPOSED CONFINED ANIMAL FEEDING OPERATIONS AND TO DELETE MILEAGE LIMITATIONS FOR MEMBERS OF THE PUBLIC TO COMMENT.

S 1057

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO TRUSTS; AMENDING SECTION 15-1-201, IDAHO CODE, TO DEFINE "SETTLOR" AND TO ALPHABETIZE DEFINITIONS; AMENDING SECTION 15-7-501, IDAHO CODE, TO AMEND TRUST PROTECTOR PROVISIONS; REPEALING SECTION 15-7-502, IDAHO CODE, RELATING TO RESTRICTIONS ON TRANSFERS IN TRUST; AMENDING PART 5, CHAPTER 7, TITLE 15, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 15-7-502, IDAHO CODE, TO SET FORTH PROVISIONS APPLICABLE TO SPENDTHRIFT TRUSTS; AND AMENDING SECTION 55-905, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO FRAUDULENT TRANSFERS OF PERSONALTY.

S 1058**BY JUDICIARY AND RULES COMMITTEE****AN ACT**

RELATING TO THE UNIFORM PROBATE CODE; AMENDING SECTION 15-5-309, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO NOTICES IN GUARDIANSHIP PROCEEDINGS AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 15-5-405, IDAHO CODE, TO REVISE NOTICE PROVISIONS.

S 1059**BY JUDICIARY AND RULES COMMITTEE****AN ACT**

RELATING TO ACKNOWLEDGMENTS OF WRITTEN INSTRUMENTS; AMENDING SECTION 51-109, IDAHO CODE, TO PROVIDE FOR THE CERTIFICATION OF THE AFFIXATION OF A SIGNATURE BY MARK AND TO PROVIDE FOR A SIGNATURE BY A NOTARY FOR A PERSON PHYSICALLY UNABLE TO SIGN OR MAKE A MARK; AMENDING CHAPTER 7, TITLE 55, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 55-712A, IDAHO CODE, TO PROVIDE FOR A CERTIFICATE OF ACKNOWLEDGMENT BY A PERSON SIGNING BY MARK; AND AMENDING CHAPTER 7, TITLE 55, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 55-712B, IDAHO CODE, TO PROVIDE FOR A CERTIFICATE OF ACKNOWLEDGMENT BY A PERSON PHYSICALLY UNABLE TO SIGN OR MAKE A MARK.

S 1060**BY JUDICIARY AND RULES COMMITTEE****AN ACT**

RELATING TO THE IDAHO PROBATE CODE; AMENDING SECTION 15-1-201, IDAHO CODE, TO REVISE A DEFINITION; AMENDING SECTION 15-5-309, IDAHO CODE, TO REVISE PROVISIONS RELATING TO NOTICES IN GUARDIANSHIP PROCEEDINGS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 15-5-405, IDAHO CODE, TO REVISE NOTICE PROVISIONS; AND AMENDING SECTION 15-5-406, IDAHO CODE, TO REMOVE LANGUAGE PROVIDING THAT CERTAIN ENTITIES ARE INTERESTED PERSONS IN PROTECTIVE PROCEEDINGS.

S 1061**BY JUDICIARY AND RULES COMMITTEE****AN ACT**

RELATING TO THE UNIFORM PROBATE CODE; AMENDING PART 2, CHAPTER 5, TITLE 15, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 15-5-212A, IDAHO CODE, TO SET FORTH PROVISIONS APPLICABLE TO GUARDIANSHIPS ARISING IN CONNECTION WITH A PROCEEDING UNDER THE CHILD PROTECTIVE ACT.

S 1062**BY STATE AFFAIRS COMMITTEE****AN ACT**

RELATING TO THE RENOVATION OF THE STATE CAPITOL BUILDING; AMENDING SECTION 67-404a, IDAHO CODE, TO PROVIDE THAT THE LEGISLATURE WILL HOLD ITS ORGANIZATIONAL SESSION IN THE CAPITOL BUILDING OR IN THE BUILDING IN WHICH THE LEGISLATURE WILL

HOLD SESSIONS, TO PROVIDE FOR PAYMENT OF MEMBERS' EXPENSES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-1204, IDAHO CODE, TO PROVIDE THAT DURING THE STATE CAPITOL BUILDING RENOVATION OR DURING RELOCATION DUE TO AN EMERGENCY, STATE MONEYS SHALL BE KEPT IN A VAULT WITHIN THE OFFICE OF THE STATE TREASURER'S TEMPORARY LOCATION AND UPON COMPLETION THESE MONEYS SHALL BE KEPT IN A VAULT IN THE CAPITOL BUILDING; AMENDING SECTION 67-1608, IDAHO CODE, TO PROVIDE THAT CERTAIN FURNITURE DURING RENOVATION OF THE CAPITOL BUILDING SHALL BE KEPT IN TEMPORARY SPACE APPROVED BY THE CAPITOL COMMISSION; AND DECLARING AN EMERGENCY.

S 1063**BY STATE AFFAIRS COMMITTEE****AN ACT**

RELATING TO ESCHEATED AND UNCLAIMED PROPERTY; AMENDING SECTION 14-113, IDAHO CODE, TO REQUIRE THAT PROPERTY FROM AN ESTATE WITH NO HEIRS OR OTHER CLAIMANTS SHALL BE PAID TO THE PUBLIC SCHOOL ENDOWMENT FUND; AMENDING SECTION 14-522, IDAHO CODE, TO PROVIDE A CORRECT CODE CITATION AND TO CORRECT CODIFIER'S ERRORS; AMENDING SECTION 14-523, IDAHO CODE, TO PROVIDE FOR DISTRIBUTION OF FUNDS RECEIVED FROM UNCLAIMED SHARES AND DIVIDENDS OF IDAHO CORPORATIONS TO THE PUBLIC SCHOOL ENDOWMENT FUND, TO PROVIDE FOR RECAPTURE FROM THE PUBLIC SCHOOL EARNINGS RESERVE FUND IF CERTAIN CIRCUMSTANCES OCCUR AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 15-3-914, IDAHO CODE, TO REQUIRE THAT PROPERTY FROM AN ESTATE IN WHICH AN HEIR OR CLAIMANT CANNOT BE FOUND SHALL, AFTER APPROXIMATELY FIVE YEARS, BE PAID TO THE PUBLIC SCHOOL ENDOWMENT FUND AND TO MAKE TECHNICAL CORRECTIONS.

S 1064**BY STATE AFFAIRS COMMITTEE****AN ACT**

RELATING TO CODIFIER'S CORRECTIONS IN STATUTES; AMENDING SECTION 7-803, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 15-2-504, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS AND TO FIX A CODIFIER ERROR; AMENDING THE HEADING FOR CHAPTER 85, TITLE 18, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 85, LAWS OF 2006; AMENDING SECTION 18-8501, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 85, LAWS OF 2006, TO REDESIGNATE THE SECTION; AMENDING SECTION 18-8502, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 85, LAWS OF 2006, TO REDESIGNATE THE SECTION; AMENDING SECTION 18-8503, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 85, LAWS OF 2006, TO REDESIGNATE THE SECTION AND TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 18-8504, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 85, LAWS OF 2006, TO REDESIGNATE THE SECTION; AMENDING SECTION 18-8505, IDAHO CODE, AS

ADDED BY SECTION 1, CHAPTER 85, LAWS OF 2006, TO REDESIGNATE THE SECTION; AMENDING SECTION 19-819, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 19-1205, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 19-2507, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 19-2916, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 19-2936, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING THE HEADING FOR CHAPTER 27, TITLE 25, IDAHO CODE; AMENDING SECTION 33-1004E, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES; AMENDING SECTION 33-3407, IDAHO CODE, TO PROVIDE A GRAMMATICAL CORRECTION; AMENDING SECTION 34-2205, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 38-1306, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 39-2102(A), IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 39-3502, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 39-3613, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 41-3408, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 43-219, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 49-435, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1733, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-3622O, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-460, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-501, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-505, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-5718, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING THE HEADING FOR CHAPTER 60, TITLE 67, IDAHO CODE; AMENDING SECTION 72-205, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 72-1347B, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION.

S 1055, S 1056, S 1057, S 1058, S 1059, S 1060, S 1061, S 1062, S 1063, and S 1064 were introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

H 2, by State Affairs Committee, was introduced, read the first time at length, and referred to the State Affairs Committee.

The Senate advanced to the Twelfth Order of Business.

Second Reading of Bills

H 29, by Appropriations Committee, was read the second time at length and filed for third reading..

Third Reading of Bills

S 1034 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Keough arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Lodge, Malepeai, McGee, McKague, Pearce, Richardson, Schroeder, Siddoway, Stegner, Stennett, Werk. Total - 32.

NAYS--None.

Absent and excused--Burkett, Little, McKenzie. Total - 3.

Total - 35

Whereupon the President declared **S 1034** passed, title was approved, and the bill ordered transmitted to the House.

S 1035 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Hammond arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Lodge, Malepeai, McGee, McKague, Pearce, Richardson, Schroeder, Siddoway, Stegner, Stennett, Werk. Total - 32.

NAYS--None.

Absent and excused--Burkett, Little, McKenzie. Total - 3.

Total - 35

Whereupon the President declared **S 1035** passed, title was approved, and the bill ordered transmitted to the House.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

Miscellaneous Business

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the Senate adjourned at 12:05 p.m. until the hour of 11:30 a.m., Tuesday, January 30, 2007.

JAMES E. RISCH, President

Attest: RUSTI HORTON, Assistant Secretary